

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG

MICHAEL RAY FORTUNA,

Plaintiff,

v.

Civil Action No. 1:19cv3
(Judge Kleeh)

FEDERAL BUREAU OF PRISONS;
MRS. CORBIN, Physical Assistant;
MRS. JANE DOE, Medical Administrator;
MR. JOHN DOE, Warden at FCI
Morgantown; MRS. SHAFFER, C.O.; and
JOHN or JANE DOE, Doctor,

Defendants.

ORDER ADOPTING REPORT AND
RECOMMENDATION [DKT. NO. 10]

On January 2, 2019, the *pro se* Plaintiff filed this Bivens civil rights matter, along with a *Motion for Leave to Proceed in forma pauperis* ("IFP"), together with a Prisoner Trust Account Report, ledger sheets, and a consent to collection of fees from trust account [Dkt. Nos. 1, 2, 3, 4]. At the time he filed his Complaint, *pro se* Plaintiff's Prisoner Trust Account Report indicates that he had an account balance of \$8,011.86; his average monthly deposits for the six months preceding the filing of the Complaint were \$201.86 per month; and he receives regular Western Union money orders several times each month [Dkt. No. 3, 3-1].

This matter was referred to Magistrate Judge Michael J. Aloï,

who issued a *Report and Recommendation that the Application to Proceed without Prepayment of Fees be Denied* ("R&R") on February 26, 2019 [Dkt. No. 10]. The R&R found that the *pro se* Plaintiff has sufficient funds to pay the \$400.00 filing fee [Id.]. The magistrate judge determined that the request to proceed without prepayment of fees [Dkt. No. 2] should be denied, and the *pro se* Plaintiff should be ordered to pay the full filing fee [Dkt. No. 10 at 1]. The R&R also warned *pro se* Plaintiff that "the failure to pay the full filing fee within the time allowed by the Court will result in the dismissal of his complaint" [Id. at 1-2]. The R&R notified *pro se* Plaintiff that he had fourteen (14) days and three (3) days (for mailing/service) from the date the R&R was filed within which to file specific objections to the R&R, together with the basis for each objection [Dkt. No. 10 at 2]. The time period for specific objections has expired, and no objections to the magistrate judge's R&R were filed.

The Court sent the magistrate judge's R&R to *pro se* Plaintiff by certified mail to the address on file [Dkt. No. 11]. Plaintiff filed two Notices of Change of Address, one on January 14, 2019 [Dkt. No. 9], before the issuance of the R&R, and one on June 10, 2019 [Dkt. No. 12]. The most recent notice [Dkt. No. 12] indicates that *pro se* Plaintiff's address is Michael Fortuna #11027-088, FCI

Gilmer Camp, P.O. Box 6000, Glenville, WV 26351 [Id.]. No items have been returned to the Court as undeliverable despite *pro se* Plaintiff's change of address.

Consequently, because no objections were filed, the Court finds no clear error with the magistrate judge's findings, **ADOPTS** the Report and Recommendation in its entirety [Dkt. No. 10], and **ORDERS** that Plaintiff's request to proceed without prepayment of fees [Dkt. No. 2] be **DENIED**. The Court further **ORDERS** that *pro se* Plaintiff pay the full filing fee in this matter.

It is so **ORDERED**.

The Court directs the Clerk to mail a copy of this Order to the *pro se* Plaintiff at Michael Fortuna #11027-088, FCI Gilmer Camp, P.O. Box 6000, Glenville, WV 26351, by certified mail, return receipt requested.

DATED: June 19, 2019

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE